

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Requests for Review or Waiver of)	
Decisions of the)	
Universal Service Administrator by)	
)	
Streamlined resolution of requests related to)	
Actions by the Universal Service)	DA 15-1105
Administrative Company)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

Petition for Reconsideration by Livingston Parish Public Schools

Livingston Parish Public Schools (LPS) respectfully requests reconsideration of a decision by the Wireline Competition Bureau (Commission) in accordance with 47 C.F.R § 1.106(b)(1) and/or (b)(2), Specifically, this Petition for Reconsideration relies on facts or arguments unknown to LPS since the last opportunity to present them.

Alternatively, and in the public interest, LPS asks the Commission to waive applicable rules and/or policies in this instance and restore funding to LPS. This appeal is timely filed within 30 days of the Commission decision.

Form 471 Application Number: 742144

FRN: 2003763, 2008327, 2008349, 2008373, 2008389, 2008403, 2008417, 2019393

Billed Entity Number: 139278

Introduction:

In the E-Rate Modernization Order, the FCC recognized the critical role the E-Rate program plays in the lives of communities and the importance of ensuring the program sufficient equitable and predictable support for high speed connectivity to schools and libraries.¹ In the same order, the FCC Amended § 54.514, designating specific deadlines for invoice submission and allowing for one Invoice Deadline Extension requested in advance of the deadline. According to the Code of Federal Regulations, 54.514, which includes rules on Payment for discounted services, Paragraph (a) which pertains to the Invoice filing deadline will not become effective until July 1, 2016.²

Background:

LPS requested discounts on Priority 2 Internal Connections in 2010. It is well documented that funding for Internal Connections equipment for discounts under the 90% discount level was a rarity. LPS was approved for \$124,231.03 in discounts and counted on them. Livingston Parish School District is one of the fastest growing school districts in Louisiana, and needed E-Rate support to improve infrastructure that would support the growing student population's technology needs.

The FRNs here under appeal encountered considerable problems once a funding commitment was made. Specifically, the service provider required a SPIN change, which was submitted. A Revised FCDL was issued on February 15, 2012 in Appeal Wave A49. A Form 486 was timely filed by the applicant for the revised FCDL. Equipment was purchased, installed and paid for by the applicant. A BEAR form was submitted on October 25, 2012, *before* the invoice deadline (emphasis added). We believe this demonstrates LPS made a good faith to timely file BEARs. However, the funds were not disbursed to the applicant by USAC.

Sandra Brewer, the Director of Technology who filed the above referenced applications and BEARs and SPIN changes retired on February 28, 2013. The new Director of Technology, Robert Logan had little knowledge of E-Rate and was not informed of the invoice deadline for application 742144. The invoice deadline was January 28, 2014. Mr. Logan was also unaware that the funds had not been disbursed. This is not unusual, as BEAR reimbursement checks are usually sent by service providers to the business office and not to technology coordinators. Although USAC is required by the FCC to notify applicants when an FCC 486 has not been received, there is no such notification for invoicing. An applicant must

¹ In the Matter of Modernizing the E-rate Program for Schools and Libraries WC Docket No. 13-184 paragraph 4.

² See Code of Federal Regulations, 54.514 http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=1f9d926662f6008f1a156305f6681843&mc=true&n=pt47.3.54&r=PART&ty=HTML#se47.3.54_1514

simply “know” the rules. Upon learning that the deadline had been missed, the new Technology Coordinator filed an Invoice Deadline Extension request with USAC and was denied.

On December 17, 2014 Robert Logan requested an invoice deadline extension for the above referenced application and FRNs. The extension request was based on guidance provided on the USAC website at that time that invoice extensions could be requested and granted for specific reasons. USAC denied the request. Mr. Logan submitted a timely appeal to USAC and was denied again on June 18, 2015. The reason for denial was:

**FCC rules require that Invoice Deadline Extension requests be filed by the end of the relevant invoice receipt period for the service category of the FRN requiring an extension. The invoice receipt deadline is 120 days after the end of the service delivery date or 120 days after the date of the Form 486 Notification Letter, whichever is later. USAC denied your request for Invoice Deadline Extension because the request was not filed in a timely manner. On appeal, you have not provided extraordinary circumstances that prevented you from requesting an Invoice Deadline Extension in a timely manner. Since USAC’s decision was consistent with FCC rules, your appeal is denied.*

Mr. Logan submitted an appeal to the FCC on August 18, 2015 and this appeal was denied on September 30, 2015.

Discussion:

LPS submitted a timely BEAR form; however, USAC did not disburse funds to the service provider for reimbursement to LPS. LPS is unaware of the reason why this BEAR was not paid by USAC. The non-payment is commonly referred to as a “Zero Passed” BEAR, which has been an unresolved point of contention between the Administrator and applicant community.

The FCC remains publically committed to provide “sufficient, equitable and predictable support.” LPS was funded for equipment that provided wireless infrastructure and routers – services that the FCC has specifically stated are aligned with their goals for the future of the E-Rate program. In this case, we observe that the lack of disbursement, lack of outreach by USAC and continued denial of requests to allow LPS to correct issues that led to the non-disbursement is in opposition to the FCC’s stated commitment. Furthermore, USAC’s denial of the invoice deadline extension and subsequent appeal was based on a rule that does not take effect until July 1, 2016. Therefore at the time of the request, the deadline was a procedure and not a rule. The denial of the invoice extension request was made without any guidance to applicants about policy changes in advance of the actual change in rules.

LPS realizes that the rule allowing one deadline extension request of 120 days is currently in effect. However, this rule was enacted after the deadline had passed for submitting invoices on the above referenced FRNs.

In DA 15-875 released July 30, 2015, the FCC granted requests for Invoice Deadline Extension waivers to schools who could demonstrate good faith in complying with the invoicing deadline. In footnote 7 of DA 15-875, reference was made to *Requests for Review of the Decisions of the Universal Service*

Administrator by Canon-McMillan School District et al.; para. 6. In paragraph 6, the Order states that claims by applicants of staff changes or inadvertent errors on the part of the staff was sufficient evidence and specifically, "We note that those tasked with working on E-rate applications are typically school administrators, technology coordinators, teachers and librarians who may have little experience with invoice requirements for the E-rate program."³

The State E-Rate Coordinator's Alliance has thoroughly documented the "Zero Passed" BEAR issue over the years and requested that both the Commission and Administrator address the fact that many applicants are unfairly and retroactively denied funding because of insufficient notification from the Administrator when a BEAR is zero passed or the invoice deadline has been missed. To date, no action has been taken. Indeed, with recent FCC orders, it appears the deadlines have become more restrictive.

Conclusion:

LPS humbly requests that the deadline to submit invoices for application 742144 be extended to allow LPS to correct the errors that led to denial of the original BEAR and to submit an invoice for payment by USAC.

Additionally, in the Alaska Gateway decision released September 14, 2006, the FCC recognizes the limitations of school district staff and given that the applicants missed a procedural deadline and there was no evidence of waste, fraud or abuse and denial would inflict undue hardship on the applicants, relief was granted to applicants. In this case, a procedural deadline was missed, and denial will indeed inflict undue hardship on the applicant who attempted to follow the rules as well as they could, considering limited knowledge of the E-Rate program.⁴

Consistent with the Alaska Gateway decision, we respectfully request that the FCC consider provision of outreach by USAC to applicants who have not submitted invoice extension requests and/or invoices by the deadline. USAC issues Urgent Reminder Letters to applicants who have not certified a Form 486 by the deadline and they are given 20 days to submit and certify the Form 486.

Respectfully submitted by,



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³ FCC/DA-08-2385, para. 6.

⁴DA 06-1871 regarding Requests for Review and Waiver of the Decision of the Universal Service Administrator by Alaska Gateway School District Tok, AK, et al. File Nos. SLD-412028, et al.; Para. 7.